

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KOCH FOODS OF ALABAMA, LLC,)
an Alabama limited liability company,)

Plaintiff and Counter-Defendant,)

vs.)

GENERAL ELECTRIC CAPITAL)
CORPORATION, a Delaware)
corporation,)

Defendant and Counter-Plaintiff,)

CIVIL ACTION NO.
2:07 CV 522-MHT

GENERAL ELECTRIC CAPITAL CORPORATION'S OBJECTIONS TO
THE EXHIBITS OF KOCH FOODS OF ALABAMA, LLC

General Electric Capital Corporation ("GE Capital"), through its undersigned counsel, and pursuant to Section 11 of the Uniform Scheduling Order entered in the above-captioned proceeding on July 17, 2007 (Doc. No. 14), submits the following objections to the exhibits identified by Koch Foods of Alabama, LLC ("Koch Foods") for use at trial. In conjunction therewith, GE Capital states as follows:

Exhibit No.	Exhibit Description	Basis of the Objection
PX 1	Financing Proposal from GE Commercial Equipment Financing to Sylvest Farms, Inc., dated December 1, 2005.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 2	Financial Statements from GE regarding Sylvest Farms, dated December 14, 2005.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 3	Diligenz report regarding UCC Financing Statements for Sylvest Farms, Inc., dated December 14, 2005.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 4	Email from Jonathan Reich, of Michael Fox International, Inc., to William Wilson, of GE Commercial Equipment Financing, dated May 5, 2006, regarding Sylvest Farms, Inc. filing Chapter 11.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence; Inadmissible under Rule 802 of the Federal Rules of Evidence.

PX 6	Emails between Alexander Terras and Eugene Geekie dated June 1, 2006.	Inadmissible under Rule 408 of the Federal Rules of Evidence; Inadmissible under Rule 802 of the Federal Rules of Evidence; Document has not been properly authenticated.
PX 7	Emails between William Wilson and Joe DiSalvo dated October 30, 2006.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 9	Email, with attached proposal, regarding Spiral Freezing System, from Michael Leonard, of MTL Services, to William Perry, of GE Commercial Equipment Financing, dated July 17, 2006.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 10	Financing Proposal (regarding Lease) from GE Commercial Equipment Financing to Peco Foods, Inc., dated August 21, 2006.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 11	Email from Tommy Elliot of Peco Foods to William Perry, of GE Commercial Equipment Financing, as seller, to Michael Leonard, Inc. as Buyer, dated May 11, 2007.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 12	Equipment Purchase Invoice and Bill of Sale for Spiral Freezer, by GE Commercial Equipment Financing, as seller, to Michael Leonard, Inc. as Buyer, dated May 11, 2007.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence; Lack of proper foundation for the document.
PX 13	Recommendation, dated December 21, 2007, from GE Commercial Equipment Financing Collection Department regarding collection of money for new equipment leased to Sylvest Farms, Inc.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence; Fails to meet the requirements of Rule 403 because its probative value is substantially outweighed by the danger that it will mislead the jury; Lack of proper foundation for the document.
PX 14	Kaminsky Letter to DiSalvo dated January 21, 2008.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 17	Appraisal report of David Dalfonso October 2007.	As stated more fully in GE Capital's Motion In Limine to Exclude Opinions and Testimony of Expert David Dalfonso Pursuant to Rules 702 and 403 of the Federal Rules of Evidence, this exhibit should be excluded under Rules 702 and 403 of the Federal Rules of Evidence. Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
PX 19	Defendant's responses to Plaintiff's second set of Interrogatories, Requests for Production of Documents, and Requests for Admission.	Fails to meet the requirements of Rule 901(a) of the Federal Rules of Evidence.

PX 21	Harris Letter to Xu dated December 10, 2007.	Fails to meet the requirements of Rules 401 and 402 Federal Rules of Evidence.
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Dated: March 31, 2008.

By: /s/ Rusha C. Smith
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Corporation

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CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/ Rusha C. Smith
COUNSEL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KOCH FOODS OF ALABAMA, LLC,
an Alabama limited liability company,

Plaintiff and Counter-Defendant,

vs.

GENERAL ELECTRIC CAPITAL
CORPORATION, a Delaware
corporation,

Defendant and Counter-Plaintiff,

CIVIL ACTION NO.
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ORDER SUSTAINING GENERAL ELECTRIC CAPITAL CORPORATION'S
OBJECTIONS TO THE EXHIBITS OFFERED BY KOCH FOODS OF ALABAMA, LLC

This matter coming to be heard pursuant to the objection filed by General Electric Capital Corporation ("GE Capital"), to certain exhibits offered into evidence by Koch Foods of Alabama, LLC ("Koch Foods"), pursuant to Section 11 of the Uniform Scheduling Order entered in the above-captioned proceeding on July 17, 2007 (Doc. No. 14), due and proper notice having been given, this Court being fully advised in the premises, and good cause appearing therefore:

IT IS HEREBY ORDERED AND ADJUDGED that the following exhibits are not accepted into evidence:

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PX 21	Harris Letter to Xu dated December 10, 2007.

Dated: April __, 2008

By: _____
Honorable Myron H. Thompson